

REMARKS

Claims 1-8, 22-28, and 64-69 are pending in this application, all of which stand rejected. In particular, claims 8 and 64-69 have been rejected under 35 U.S.C. § 101; claims 1-3, 8, 22, 25, 26, and 28 have been rejected under 35 U.S.C. § 112, second paragraph; claims 1, 3-8, 22-25, 27, 28, and 65-69 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,138,144 (DeSimone); claims 2, 26, and 64 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over DeSimone in view of allegedly admitted prior art.¹ Following entry of the amendment, claims 1-3, 8, 22, 25, 26, 28, and 64-69 will have been amended, and claim 24 will have been canceled.

For the reasons set forth below, applicants request reconsideration of the Office Action.

Section 101 Rejection

Claims 8 and 64-69 have been amended to recite one or more “computer-readable storage media” (with underlining showing language added by amendment). While applicants do not acquiesce in the Office’s position that communications media raise a section 101 issue, the amendment effectively renders this issue moot. In view of this amendment, applicants request that the section 101 rejection of claims 8 and 64-69 be withdrawn.

Section 112, Second Paragraph Rejection

Claims 1 and 8

As to the rejection of claims 1 and 8, applicants respectfully submit that the term “according to said first session topology” is not a “relative term” (as the Examiner asserts); nor is that term indefinite for any other reason. The concept of “relative terminology,” which is one type of issue that can be raised under 35 U.S.C. § 112, second paragraph, is described in MPEP 2173.05(b). “Relative terminology” includes terms such as “about,” “essentially,” “similar,” “substantially,” “type,” and some other terms of degree, where the degree cannot

¹ The section 102(e) rejection states that it covers claims 2, 26, and 64 (see Office Action, ¶ 14), although no detailed explanation is provided as to how claims 2, 26, and 64 are anticipated. Thus, it appears that the Examiner intended to reject claims 2, 26, and 64 solely under section 103(a) and not under section 102, and applicants have responded to the Office Action on the assumption that claims 2, 26, and 64 are not subject to a section 102 rejection.

be ascertained. The phrase “according to said first session topology” contains no such relative terms. It is unclear which term the Examiner believes is “relative.” The phrase “said first session topology” is not a relative term; it refers back to a session topology that is previously defined in the claim. “According to” is also not a relative term. According to the Merriam-Webster dictionary (www.m-w.com), “according to” means “in conformity with.” While the claims are not limited to one particular dictionary’s definition of a term, the above-quoted dictionary definition demonstrates that “according to” has an ascertainable meaning, and is not indefinite. At a minimum, “sending said first data package to said destination device according to said first session topology” – as recited in claims 1 and 8 – covers the act of sending a first data package to a destination device in a manner that is in conformity with a first session topology.

The Examiner states that “the specification does not provide a standard for ascertaining the requisite degree” It is not clear what “degree” the Examiner is referring to. However, to the extent that the Examiner is saying that the specification does not provide a basis for understanding the phrase “according to said first session topology,” this assertion is simply not correct. As noted above, “according to” has a well-understood meaning, and the notion of a session topology is clearly set forth in the specification at pages 14-15.

Thus, applicants submit that claims 1 and 8 do not contain relative terminology, and are not indefinite for any other reason.

Claim 2

In claim 2, “said device” has been changed to “said first device.”

Claim 3

In claim 3, “said data package” has been changed to “said first data package.”

Claim 22

Applicants respectfully submit that the phrase “being operative or non-operative according to a comparison of said second identifier with said first identifier” is not a relative term and is not indefinite. The Examiner’s comment states that this phrase is unclear because “no relation was given between the comparison and the operative nature of the module.” The assumption in the Examiner’s comment appears to be that the claim needs to state under which conditions the comparison would result in the module being operative, and under

which conditions the comparison would result in the module being non-operative. However, the claim is not intended to limit the comparison in such a manner.

Claim 22 defines that the module can be either operative or non-operative, and that a comparison between the first and second identifiers is made to determine whether the module is operative or non-operative. Thus, it is clear what situations are within the scope of the claim: The claim covers systems in which a module can be either operative or non-operative, and in which some comparison between the first or second identifiers determine whether the module is operative or non-operative. Examples of such a comparison are: less than, equal to, greater than, etc. However, the claim is not limited to any particular comparison. Anyone who wants to determine whether the claim applies to a particular system can evaluate the system, determine whether it makes such a comparison between two identifiers, and whether the system has a module that is either operative or non-operative based on that comparison. There is nothing “relative” (or indefinite) about the claim’s defining its scope in terms of such a comparison being made, since, for any system, it can be determined whether or not the system makes a comparison, and whether it renders a module operative or non-operative based on the comparison.

In view of the foregoing, applicants submit that claim 22 is not indefinite, and applicants request that the Examiner reconsider and withdraw the section 112 rejection of claim 22.

Claim 25

Claim 25 contains the phrase “the lowest value among said host order values.” The Examiner asserts that “lowest value” is a relative term that renders the claim indefinite. Applicants disagree. Claim 25 is dependent on claim 24. Claim 24 recites “host order values.” Claim 25 then recites “the lowest value among said host order values.”

There is nothing indefinite in saying that a set of values has a lowest value. It is well known that values are typically in an order space (e.g., the integers constitute a space of values; there is a well-defined order on the integers, such that, given any finite set of integers, it can be determined which member of the set has the “lowest value”). While it would be possible to have a set of un-ordered values (e.g., complex numbers, such as $1+i$, obey no particular order), the term in question is “host *order* values” (italics added), which points out that the values recited in the claim do represent an order. Since there is an order among the

host order values, it is also the case that one of the values in a given set of host order values is the lowest among those values. Thus, the phrase “the lowest value” is a quite well-defined term as used in claim 25: for any given set of host order values, it can be determined unambiguously which one is “the lowest value.”

In view of the foregoing, applicants request that the Examiner reconsider and withdraw the section 112 rejection of claim 25.

Claim 26

In claim 26, “said first module” has been changed to “said first program module.”

Claim 28

In claim 28, “fourth module” has been changed to “fourth program module.”

Conclusion for Section 112 Rejection

For these reasons, applicants request that the section 112 rejection be reconsidered and withdrawn.

Section 102 Rejections of the Independent Claims (1, 8, and 22)

The independent claims – 1, 8, and 22 – have all been rejected under section 102 as being anticipated by DeSimone. For the reasons set forth below, applicants request that the Examiner reconsider the rejection and allow these claims.

Claims 1 and 8

Claim 8 is a computer-readable media version of method claim 1, and thus claims 1 and 8 will be addressed together.

DeSimone describes a system for participating in conferences over the Internet. Terminals that want to receive conference information (e.g., a video feed from a live conference) are assigned a particular port number. The originator of the conference material contacts a server called the “MARS” server to find out to whom to “unicast” the video feed. Each participant in the conference is assigned an IP address, and the MARS server informs the originator which ports it should unicast the material to. This process is explained in DeSimone at col. 5, line 63 et seq.:

When client terminal 101-1 transmits, therefore, it sends the multicast IP address on which it transmits its video to MARS server 126 and receives therefrom the list of ATM unicast

addresses to which ATM connections should be established. Client terminal 101-1 then sets up a point-to-multipoint virtual circuit to the ATM addresses of client terminals 101-4 and 101-5. If, during an ongoing conference, client terminal 101-3 decides it also wants to receive the video signal being transmitted by client terminal 101-1, it sends a message to MARS server 126 indicating that it wants to join the multicast group (i.e., receive transmissions destined to the particular multicast IP address to which client terminal 101-1 is transmitting). MARS server 126 then adds the ATM address of client terminal 101-3 to the list of ATM addresses associated with that multicast IP address on which client terminal 101-1 transmits its video signal. Further, MARS server 126 sends an indication to client terminal 101-1 to add client terminal 101-3 to the previously established point-to-multipoint ATM virtual circuit. If, during a conference, one of the clients already receiving the video transmissions from client terminal 101-1 (such as client terminal 101-4) decides that it no longer wishes to receive those transmissions, it then sends a message to MARS server 126 indicating that it wishes to leave the multicast group (i.e., no longer wants to receive transmissions destined to that particular multicast IP address to which client terminal 101-1 is transmitting). MARS server 126 then sends an indication to client terminal 101-1 to remove client 101-4 from the previously established point-to-multipoint ATM virtual circuit.

In other words, the MARS server maintains a list of the IP addresses to which the originator of the material (client 101-1 in the above example) should send the conference feed. This list can be updated in real time, so that participates (e.g., clients 101-4 and 101-5) can join and leave conferences.

Inherent in the above-description is the fact that DeSimone uses only a single session topology. The originator of the material receives the IP addresses of the clients to which to send the material, and then sends it to those IP addresses. In other words, any node that is to receive the conference feed is a member of a single topology, to which data can be (and is) directly addressed (as evidenced by the fact that the originator simply unicasts the conference feed to the IP address of each participant in the conference).

By contrast, claims 1 and 8, as amended, define that there are two topologies, and where the set of devices to which data can be directly addressed in each topology is different. This feature is not present in DeSimone. DeSimone does not teach or suggest two different session topologies having different sets of members that can be directly addressed.

For this reason, claims 1 and 8, as amended, are not anticipated by DeSimone. In view of the foregoing, applicants request that the Examiner reconsider and withdraw the section 102 rejection of independent claims 1 and 8.

Claim 22

Claim 22 has been amended to incorporate the features of dependent claim 24 (which has been canceled).

Claim 22, as amended, defines a system that has a memory that stores a first identifier. The first identifier is one of a set of “host order values,” such that each node in a session is associated with a particular host order value. The memory further stores a table indicate of the host order values. Moreover, a program module (the “second program module”) generates a second identifier based on the ordering among the host order values. These features are not taught or suggested in DeSimone, as applied.

As explained above, DeSimone describes a system in which IP addresses are assigned to participants in a conference, and maintained in a table by the MARS server. Even if one were to argue that the IP addresses are “host order values” (a point that the Examiner has not explicitly asserted), there is no indication that the IP addresses are assigned in any particular order, or that a second identifier is generated based on the order among such IP addresses. Thus, for at least these reasons, DeSimone does not anticipate claim 22.

While claim 22 does not import features from the specification, it is useful to consider a portion of the specification in understanding claim 22. Page 27, line 22 through page 30, line 10 describes “host migration” – the process of changing the session host when the

current host departs. Each node in a session can be assigned a host order identifier, which indicates the order in which successive nodes will be selected to fill the role of the host if the current host departs. Each node maintains a table of the host order identifiers of the other nodes in the session, and determines whether that node is, in fact, the host, by determining whether its own host order identifier is the lowest one in the table. Thus, in the system of claim 22, the first identifier can be viewed (by way of example) as the system's host order identifier; the second identifier can be viewed as the host order identifier that the system generates for another node, the table can be viewed as a table that stores the host order identifiers of the other nodes in the session, and the comparison can be viewed as a determination of whether the system itself (or some other node in the session) has the lowest host-order identifier, in order to determine whether the system (or some other node) is the current host.

Thus, it can be seen that DeSimone does not have the host order values, or an order among identifiers, as recited in claim 22, and, for at least this reason, DeSimone does not anticipate claim 22.

In view of the foregoing, and in view of the amendments to claim 22, applicants request that the Examiner reconsider and withdraw the section 102 rejection of claim 22.

Dependent Claims

Since the independent claims have been shown to be allowable, the dependent claims are allowable at least by reason of their dependency.

No New Matter

The amendments to claims 8 and 64-69 to recite "computer-readable storage media" do not constitute new matter. These amendments are supported at least by page 8, lines 20-28 of the original specification.

The amendments to claims 2, 3, 26, and 28 address minor typographical oversights to make the use of terms consistent throughout the claims. As such, these amendments do not introduce new matter.

The amendment to claim 22 incorporates the features of now-canceled dependent claim 24, and thus does not introduce new matter.

DOCKET NO.: MSFT-0237/147839.2
Application No.: 09/800,394
Office Action Dated: November 28, 2006

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The amendment to claim 25 changes the dependency of that claim in view of the cancellation of claim 24, and thus does not introduce new matter.

The amendments to claims 1 and 8 are supported at least by page 14, lines 17-24 of the original specification, and thus do not introduce new matter.

Conclusion

For the foregoing reasons, applicants respectfully submit that this case is now in condition for allowance.

Date: February 15, 2007

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